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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/349,737	07/08/1999	DEAN R. SHACKLETT	99-40132-US	7065

7590 01/30/2002

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EXAMINER

PRATT, CHRISTOPHER C

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 01/30/2002

60

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/349,737

Applicant(s)

SHACKLETT ET AL.

Examiner

Christopher C. Pratt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 14-75 is/are pending in the application.
- 4a) Of the above claim(s) 20-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-9, 14-19 and 43-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9. 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendments and accompanying remarks filed 12/18/01 have been entered and carefully considered. Applicant's amendment is found to overcome the rejections set forth in the last action. Despite this advance, the amendments are not found to patentably distinguish the claims over the prior art and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

Election/Restrictions

2. In response to applicant's amendments species II and III are rejoined with the elected invention.

Claim Objections

3. Claim 2 is dependant upon a canceled claim.

Claim Rejections - 35 USC § 112

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 2-9, 14-19, 43-75 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 58, 63, 74 are indefinite because of the phrase "without substantial degradation...over time." This phrase is relative. What level of degradation and amount of time is applicant referring to?

Claim Rejections - 35 USC § 103

6. Claims 2-9, 14-19, 58, 60-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over either McFarland et al (6096412) or Schleinz et al (5458590) in view of either Dainippon (JP-63091243A), Hayashi (5776854), or Morikawa et al (6161928) and Krzysik et al (5601871).

As set forth in the previous action McFarland and Schleinz both teach printing inks on at least one side of a nonwoven absorbent material. Said material comprising cellulose or polyester and blends thereof. McFarland and Schleinz fail to teach using applicant's claimed vehicle.

Dainippon, Hayashi, and Morikawa are all concerned with printing inks on nonwoven substrates. All teach the use of applicant's claimed vehicles (abstract; col. 1, lines 24-27 and col. 5, lines 21-23; col. 12, lines 1-15, respectively). It would have been obvious to a person having ordinary skill in the art to utilize the vehicles taught by Dainippon, Hayashi, and Morikawa in the dyes of McFarland and Schleinz. Such a combination would have been motivated by the desire to provide the ink with a more uniform dispersion and improved mechanical strength.

The combination of the references set forth above do not seem to specifically teach printing both sides of a substrate in register. Krzysik teaches printing both sides of a nonwoven web uniformly with a colorant (col. 2, lines 6-8). If Krzysik's process does not inherently form the image in register then it would have been obvious to a person having ordinary skill in the art to print both sides of the web created by McFarland or Schleinz and Dainippon, Hayashi, or Morikawa in register. Such a

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modification would have been motivated by the desire to render the web more attractive to consumers.

With respect to applicant's claimed properties, it is the examiner's position that the web created by the combination set forth above inherently possesses said properties. Applicant indicates that the properties are a result of the vehicle used. Because said combination utilizes applicant's claimed vehicle it follows that the leaching properties of the inks are similar.

It would have been obvious to vary the size, shape and thickness of the nonwoven material for the reasons set forth in the last action.

Applicant argues that McFarland and Schleinz do not disclose a motivation to utilize the teachings of Krzysik. The examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. In re Nomiya, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. In re McLaughlin, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. In re Bozek, 163 USPQ 545 (CCPA) 1969. In this case, it is the examiner's position that one having ordinary skill in the art would have found it obvious to print both sides of the fabrics created by McFarland and Schleinz.

Such a combination would have been motivated by the reasoned expectation of rendering said fabrics more attractive for commercial sale.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Christopher C. Pratt
January 27, 2002



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700